

CHAPTER I

LOCAL PROGRAM DEVELOPMENT

INTRODUCTION

The state-local cooperation envisioned by the Chesapeake Bay Preservation Act hinges on timely local implementation of the Criteria Regulations promulgated by the Chesapeake Bay Local Assistance Board. This chapter outlines the implementation schedule which takes into consideration the planning needs and abilities of Tidewater localities. The various tasks to be accomplished during the implementation period are explained. Taken together, the schedules and guidelines establish the framework for a cooperative state-local effort to protect the water quality of the Chesapeake Bay and its tributaries. While the Act and the Board's Regulations give much discretion to local governments, general adherence to these procedures will greatly strengthen the efficiency of program development and ensure compliance with the requirements of the Act and the Board's Regulations.

The guidelines presented in this chapter are intended to be of assistance to all counties, cities, and towns comprising "Tidewater Virginia" as defined in the Act. "Tidewater Virginia," by definition, includes 17 cities and 29 counties, many of which encompass independent towns possessing their own land use policies, plans, and ordinances. Unless included in the county programs, towns will be required to prepare local implementation programs independently. Thus, early in the designation process, town officials should contact the county administration to determine an appropriate process for designating and managing Preservation Areas within their jurisdictions.

PROGRAM OVERVIEW AND SCHEDULES

Section 10.1-2109 of the Chesapeake Bay Preservation Act allows localities one year after the adoption date of the Regulations (**September 20, 1989**) to designate Chesapeake Bay Preservation Areas within their jurisdictions. Localities are further required by the Act to "employ measures" necessary to implement the Board's performance criteria.

For many localities, one year may not be sufficient to fully incorporate the performance criteria into local plans and land use ordinances. These localities may, as an option, adopt the performance criteria as a separate ordinance, thus ensuring that performance criteria are "employed" within the one year period specified for designating Chesapeake Bay Preservation Areas. The second program year could then be devoted to further refining the performance criteria and revising plans and ordinances as necessary. By the end of the two years, every locality will develop and fully implement a local program which accomplishes the Act's specific objectives.

NOTE: In a forthcoming chapter of the local assistance manual, the Department will provide a model ordinance for employing the Board's performance criteria. The form of the ordinance will likely be a model overlay district which embodies the specific criteria of the Board's Regulations.

The Department will provide local governments with technical assistance during the implementation period. A Department staff member will serve as a liaison between the Department and each local government. The liaison will provide both office and field assistance with the designation and management phases of implementation. Local

governments should plan to meet with their liaison as early in the implementation period as possible.

FIRST YEAR PROGRAM

The First Year Program will accomplish the local designation of Chesapeake Bay Preservation Areas and the adoption of performance criteria to apply in these areas. In a general sense, this will involve data collection and analysis, consideration of alternatives, and implementation of the most suitable alternative. More specifically, this effort will involve inventorying sensitive land features of the shoreline and upland areas, determining the geographic extent of those features to be included as Preservation Areas (see Chapter II, Local Assistance Manual), and officially adopting the Preservation Area designations and accompanying performance criteria.

The schedule for local program development and review established by the Chesapeake Bay Local Assistance Board is designed to facilitate interaction between the Board, the Department, and local governments. The sequence of local submittals and Board review allows local governments assurance that they are proceeding in a satisfactory manner that complies with the intent of the Act and the Criteria Regulations. This process will also permit the assessment of more specific needs of individual localities and help prioritize assistance efforts in the first program years.

To allow for the maximum amount of time for the preparation of the local program,

In developing the Work Plan, the planning district staff should be consulted so that opportunities for sharing resources, achieving economies of scale, and enhancing regional cooperation can be identified. When the Work Plan itself has been prepared, it should be submitted to the planning district for comment. From a regional perspective, the planning district staff may be able to provide suggestions about mapping resources and allocations of resources that will be necessary to accomplish the First Year Program.

Following comment from the planning district staff, the completed Work Plan should be submitted to the Department for review. The Department will complete a review of the Work Plan within 30 days. If the local Work Plan appears consistent with the Act and the Regulations, the Department will schedule a conference to determine what assistance may be needed and can be supplied. If the Work Plan does not appear consistent, the Department will recommend specific changes. In such a case, the Work Plan should be revised and resubmitted to the Department.

THE FIRST YEAR PROGRAM PROPOSAL

After the Work Plan has been completed, the actual designation process should be initiated. The recommended process for designating Chesapeake Bay Preservation Areas is summarized below:

- First, collect various data and mapping resources in order to create an inventory of environmental features.
- Next, analyze the data. Research and undertake field reconnaissance to fill in data gaps. After further analysis, deter-

mine the boundaries of Resource Protection Areas on a series of working maps.

- Similarly, determine the boundaries of Resource Management Areas using the guidelines presented in Chapter 3 of this manual.
- Finally, prepare a working map or map series delineating the proposed Chesapeake Bay Preservation Areas.

NOTE: Experience has shown that the formulation of a citizen advisory committee can be very useful in achieving early and meaningful public involvement in potentially controversial processes such as these.

Early in the development of the First Year Program, alternatives for implementing the performance criteria should be evaluated. Local governments have discretion in determining the appropriate mechanism by which to employ the performance criteria of the Regulations. Some local governments may opt to develop a separate ordinance within the local code that embodies the criteria and which is referenced in the local zoning and subdivision ordinances or other ordinances that address land use. The determination of the appropriate means to employ the performance criteria should be based on an evaluation of reasonable and available alternatives. More specifically, alternatives should be evaluated based upon: the "fit" of each alternative with the specific character of each locality's land use management program; the program effectiveness of each alternative; and the degree of administrative burden on staff resources.

SECOND YEAR PROGRAM

THE WORK PLAN

Like the First Year Program, the second year of implementation should be preceded by a Work Plan which describes the year's implementation activities and the assistance that will be required. The Work Plan for the Second Year Program should be submitted to the Department by **June 20, 1990**. As with the first work plan, the Second Year Work Plan should identify program elements, set tentative dates and estimate needs for technical and financial assistance. The program elements to be discussed in the Work Plan should include at least the following:

- Review of existing plans and ordinances;
- Consideration of alternatives for revising plans and ordinances;
- Drafting necessary plan and ordinance revisions;
- Preparation and submittal of a Second Year Program Proposal;
- Presentation of the Proposal at one or more local public hearings;
- Adoption of the Second Year Program Proposal.

The Department will review the Work Plan within 30 days after submission. The Department will review the Second Year Program Work Plan for consistency with the Act and schedule a conference to discuss local needs for technical and financial assistance.

THE SECOND YEAR PROGRAM PROPOSAL

After the formal designation of Chesapeake Bay Preservation Areas and the adoption of the performance criteria, the full implementation of the Act and the Board's Criteria Regulations should be undertaken. The process for developing a Second Year Program consistent with the Act and the Regulations is outlined below:

- First, review all existing plans and ordinances for consistency with the Regulations. Carefully examine specific regulations, guidelines, plans, and policies to determine whether there is functional equivalency with the Regulations. Identify areas where existing plans and ordinances do not incorporate provisions equivalent to the Regulations;
- Next, using the chapters of this manual and the technical assistance provided by the Department, develop alternatives for revising and amending plans and ordinances;
- Finally, determine the revisions and amendments which render plans and ordinances consistent with the Act.

Once the specific revisions and amendments have been determined, a Second Year Program Proposal should be prepared. The Proposal should contain the proposed revisions in an official form suitable for comprehensive plans and local ordinances as well as a written explanation of each proposed revision. The alternatives and the technical issues considered should be thoroughly discussed.